

(1) The debtor is unable to pay any significant sum toward the claim within a reasonable period of time;

(2) Collection of interest, penalties or administrative charges will jeopardize collection of the principal of the debt; or

(3) It is otherwise in the best interest of the United States, including the situation where an offset or installment payment agreement is in effect.

§ 92.37 Non-waiver of rights by payment.

An employee's payment or agreement to pay, whether voluntary or involuntary, of all or any portion of an alleged debt being collected pursuant to these procedures shall not be construed as a waiver of any rights which the employee may have under this part to the extent of such payment or agreement.

§ 92.39 Refunds.

(a) Amounts paid or deducted from the account of a current or former employee of the United States Government, pursuant to this part, for a debt which is found not owing to the United States shall be promptly refunded to the employee.

(b) Amounts which are waived shall, after proper application, be promptly returned after approval of the application.

§ 92.41 Requesting recovery when the Department is not the paying agency.

(a) *Format of the request for recovery.*

(1) Where the DOT operating element is the creditor agency and another agency is the paying agency, the chief of the accounting or finance office of the appropriate DOT operating element (see § 92.5(g)) shall complete and certify the "Debt Claim Form" (see Attachment 1), and attach a copy of the demand letter sent to the employee pursuant to § 92.11 with a statement of the employee's response thereto, or, if a hearing was held pursuant to § 92.13, attach a copy of the decision of the administrative law judge or other hearing official. The DOT creditor operating element shall certify that the employee owes the debt, the amount and basis of the debt, the date on which payment is due, the date the Govern-

ment's right to collect the debt accrued, and that the Departmental regulations implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management.

(2) If the collection is to be made in voluntary or involuntary installments (see Attachment 1), the DOT creditor operating element shall also advise the paying agency of the amount of the installments and, if a date for the beginning of payments other than the next officially established pay period is required, the date of the first installment.

(3) Unless the employee has voluntarily agreed to the salary offset in writing or, in the absence of such agreement, has signed a statement acknowledging receipt of the procedures required by 5 U.S.C. 5514(a)(2) and the writing or statement is attached to the debt claim form, the DOT creditor operating element shall also indicate the action(s) taken under 5 U.S.C. 5514 and give the date(s) the action(s) were taken.

(b) *Submitting the request for recovery*—(1) *Current employees.* The DOT creditor operating element shall submit the "Debt Claim Form" (Attachment 1) to the employee's paying agency.

(2) *Employees who are separating or have separated*—(i) *Employees who are in the process of separating.* If the employee is in the process of separating, the DOT creditor operating element shall submit its debt claim (Attachment 1) to the employee's paying agency for collection as provided in § 92.31 of this part. The paying agency is required to certify the total amount of its collection made or to be made prior to separation and notify the DOT creditor operating element and the employee as provided in § 92.41 (b)(2)(iii). If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it shall advise the DOT operating element and send a copy of the debt claim and certification to the agency responsible for making such payments as notice that a debt is outstanding.